

MEMO ENDORSED

JOINT LETTER FROM COUNSEL  
*GO SMILE, Inc. v. Levine* - Case No. 10 CV 8663 (PKC)

November 7, 2011

FACSIMILE (212) 805-7949

Honorable P. Kevin Castel  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11-8-11

Re: *GO SMILE, Inc. v. Levine* - Case No. 10 CV 8663 (PKC)

Dear Judge Castel:

As your Honor is aware, plaintiff GO SMILE's reply brief in support of its motion to dismiss and in opposition to Defendants' motion for attorneys' fees is due tomorrow, November 8, 2011. GO SMILE intends to attach to its brief certain materials that Defendants have designated as "confidential" or "attorneys' eyes only" pursuant to the terms of the confidentiality agreement and protective order in this case. Because Defendants may wish to have these materials filed in redacted form and/or under seal, the parties propose the procedure below so that Defendants have an opportunity to review the filing and move to seal the portions it considers confidential.

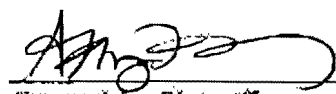
The parties, concerned with ensuring compliance with the Second Circuit decision in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 123 (2d Cir. 2006) and your Honor's addendum to the Protective Order entered in this matter, respectfully request leave to follow the procedure approved by this Court in other matters, such as *Louis Vuitton Malletier v. Hyundai Motor America* - Case No. 10 CV 1611 (PKC). Specifically, the parties propose that GO SMILE will serve its brief on Defendants on November 8, 2011 and submit a courtesy copy to your Honor's chambers, but not file anything on the ECF system until this Court has had the opportunity to review and determine Defendants' motion, if any, to file under seal. The parties propose that Defendants make any such motion to seal on or before November 16, 2011, the same day Defendants' reply brief is due. Per the terms of the Stipulation and Order for the Production and Exchange of Confidential Information (Docket No. 31), plaintiff will not oppose any motion by Defendants to seal. After your Honor's ruling on the motion to seal, GO SMILE will file its brief in accordance with your Honor's ruling.

While the parties have agreed to this proposal and present it for this Court's approval, we are, of course, prepared to abide by any other procedure that the Court finds just and proper. We thank the Court for its time and efforts in assisting the parties with these issues.

Application granted -  
SO ORDERED  
11-7-11  
USDJ

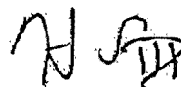
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Respectfully Submitted,



*Counsel for Plaintiff*

Respectfully Submitted,



*Counsel for Defendant*

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